

Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

FREDRICK and ANNALESA THOMAS; and  
JO-HANNA READ, as Guardian ad Litem of  
E.T., a minor,

Plaintiffs,

v.

JASON CANNON; BRIAN MARKERT;  
RYAN MICENKO; MICHAEL WILEY;  
MICHAEL ZARO; CITY OF FIFE; and CITY  
OF LAKEWOOD;

Defendants.

FREDRICK THOMAS and ANNALESA  
THOMAS, as Co-Administrators of the Estate  
of Leonard Thomas, and its statutory  
beneficiaries,

Plaintiffs,

v.

BRIAN MARKERT; MICHAEL WILEY;  
NATHAN VANCE; MICHAEL ZARO; CITY  
OF FIFE; and CITY OF LAKEWOOD;;

Defendants.

Nos. 3:15-05346 BJR  
3:16-cv-05392  
CONSOLIDATED CASES

VERDICT

**We the Jury answer the questions submitted by the Court as follows:**

### Question One

**Question 1:** Plaintiffs E.T. and the Estate of Leonard Thomas bring a Fourth and Fourteenth Amendment constitutional claim for the unreasonable seizure of E.T. from Leonard Thomas. Did any of the Defendants seize E.T. from his father Leonard Thomas in an unreasonable manner, or cause E.T. to be unreasonably seized?

Yes  No

If you answered yes, go to Questions 1a and 1b. If you answered no, go directly to Question 2.

**Question 1a.** Which Defendants committed or caused the seizure found in Question 1?

Michael Zaro	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Michael Wiley	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Brian Markert	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
City of Lakewood	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

**Question 1b.** Which Plaintiffs were damaged by the seizure found in Question 1?

E.T.	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Estate of Leonard Thomas	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

**Question Two**

**Question 2:** Plaintiff the Estate of Leonard Thomas brings a Fourth Amendment constitutional claim for excessive force. Did any of the Defendants use excessive force against Leonard Thomas, or cause excessive force to be used against him?

Yes ✓ No \_\_\_\_\_

If you answered yes, go to Questions 2a. If you answered no, go directly to Question 3.

**Question 2a.** Which Defendants caused the excessive force found in Question 2?

<b>Michael Zaro</b>	Yes <u>✓</u>	No _____
<b>Michael Wiley</b>	Yes <u>✓</u>	No _____
<b>Brian Markert</b>	Yes <u>✓</u>	No _____
<b>City of Lakewood</b>	Yes <u>✓</u>	No _____

### **Question Three**

**Question 3:** Plaintiffs E.T., Fred Thomas, and Annaesa Thomas bring a Fourteenth Amendment claim for deprivation of their familial relationship with Leonard Thomas. Did Michael Zaro cause E.T., Fred Thomas, or Annaesa Thomas to be deprived of their familial relationship with Leonard Thomas by acting with deliberate indifference to the consequences of his (Zaro's) actions and decisions?

Yes  No

If you answered yes, go to Question 3a and 3b. If you answered no, go directly to Question 4.

**Question 3a:** Is the City of Lakewood also responsible?

Yes  No

**Question 3b.** Which of the plaintiffs were damaged by the deprivation found in Question 3?

**E.T.** Yes  No

**Fred Thomas** Yes  No

**Annaesa Thomas** Yes  No

### Question Four

**Question 4:** Plaintiffs the Estate of Leonard Thomas, E.T., Fred Thomas, and Annaesa Thomas bring a Fourth Amendment constitutional claim for unreasonable seizure of their house through use of the explosive breach. Did any of the Defendants seize Plaintiffs' property through use of the explosive breach in an unreasonable manner, or cause their property to be unreasonably seized?

Yes  No

If you answered yes, go to Questions 4a and 4b. If you answered no, go directly to

### **Question 5.**

Question 4a. Which of the Defendants committed or caused the seizure?

<b>Michael Zaro</b>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
<b>Michael Wiley</b>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
<b>City of Lakewood</b>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Question 4b. Which of the Plaintiffs were damaged by the seizure found in Question 4?

<b>E.T.</b>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
<b>Estate of Leonard Thomas</b>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
<b>Annaesa Thomas</b>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
<b>Fred Thomas</b>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

### **Question Five**

**Question 5:** Plaintiffs the Estate of Leonard Thomas and E.T. bring a Fourth Amendment claim for unreasonable seizure of their dog. Did any of the Defendants unreasonably seize the dog when they killed him, or cause an unreasonable seizure of the dog?

Yes  No

If you answered yes, go to Questions 5a and 5b. If you answered no, go directly to Question 6.

**Question 5a.** Which Defendants committed or caused the seizure found in Question 5?

Michael Wiley Yes  No   
Nathan Vance Yes  No

**Question 5b.** Which Plaintiffs were damaged by the seizure found in Question 5?

E.T. Yes  No   
Estate of Leonard Thomas Yes  No

### Question Six

**Question 6:** Plaintiff Fred Thomas brings a Fourth Amendment constitutional claim for unreasonable seizure of his person. Did any of the Defendants seize Fred Thomas, or cause his person to be seized, without legal cause or with excessive force?

Yes  No

If you answered yes, go to Questions 6a. If you answered no, go directly to Question 7.

**Question 6a.** Which of the Defendants committed or caused seizure found in Question 6?

<b>Michael Zaro</b>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
<b>Ryan Micenko</b>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
<b>Jason Cannon</b>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

### **Question Seven**

**Question 7:** Plaintiff Fred Thomas brings a claim under Washington state law for false arrest. Did the Cities of either Fife or Lakewood, through the actions of their employees, cause Fred Thomas to be falsely arrested on May 24, 2013?

Yes  No

**If you answered yes, go to Questions 7a. If you answered no, go directly to Question 8.**

**Question 7a.** Which Defendant(s), through the actions of their employees, committed or caused the false arrest of Fred Thomas?

**The City of Lakewood**

Yes

No

**The City of Fife**

Yes

No

**Question Eight**

**Question 8:** Plaintiffs E.T. and Annalesa Thomas bring a claim under Washington state law for outrage against the City of Lakewood. Did the City of Lakewood, through the actions of its employees, intentionally or recklessly cause severe emotional distress to E.T. or Annalesa Thomas by outrageous conduct on May 24, 2013?

Yes  No

If you answered yes, go to Question 8a. If you answered no, go directly to Question 9.

**Question 8a.** Which of the Plaintiffs suffered severe emotional distress caused by the outrageous conduct of these Defendants?

**E.T.**

Yes  No

**Annalesa Thomas**

Yes  No

**Question Nine**

**Question 9:** Plaintiff E.T. brings a claim against the Cities of Fife and Lakewood under Washington state law for negligence in the investigation which separated him from his father. Did a negligent investigation by employees of the Cities of Fife or Lakewood cause the wrongful permanent removal of E.T. from his father Leonard Thomas?

Yes  No

If you answered yes, go to Questions 9a. If you answered no, go directly to Question 10.

**Question 9a.** Which Defendants are responsible for the negligence you found in Question 9?

**The City of Lakewood** Yes  No   
**The City of Fife** Yes  No

## Question Ten

**Question 10:** If you found in favor of any of the Plaintiffs on any claim, please answer the questions below for those Plaintiffs you found in favor of. Otherwise, please sign and return your verdict form. Take care to only award damages for claims on which you found liability.

**10a. E.T.:** For the claims you found in favor of E.T., what damages do you find for E.T. for each claim?

- Unreasonable seizure from his father (Question 1): \$ 500,000.00
- Deprivation of his familial relationship with Leonard (Question 3): \$ 2,750,000.00
- Unreasonable seizure of his house (Question 4): \$ 125,000.00
- Unreasonable seizure of his dog (Question 5): \$ N/A
- Outrage (Question 8): \$ 125,000.00
- Negligent Investigation (Question 9): \$ 500,000.00

**10b. Estate of Leonard Thomas:** For the claims you found in favor of the Estate of Leonard Thomas, what damages do you find for the Estate of Leonard Thomas for each claim?

- Unreasonable seizure of his son (Question 1): \$ 750,000.00
- Excessive Force (Question 2): \$ 1,000,000.00
- Unreasonable seizure of his house (Question 4): \$ 125,000.00
- Unreasonable seizure of his dog (Question 5): \$ 10,000.00

**10c. Annaesa Thomas:** For the claims you found in favor of Annaesa Thomas, what damages do you find for Annaesa Thomas for each claim?

- Deprivation of her familial relationship with Leonard (Question 3): \$ 750,000.00
- Unreasonable seizure of her house (Question 4): \$ 500,000.00
- Outrage (Question 8): \$ 125,000.00

**10d. Fredrick Thomas:** For the claims you found in favor of Fredrick Thomas, what damages do you find for Fredrick Thomas for each claim?

- Deprivation of his familial relationship with Leonard (Question 3): \$ 750,000.00
- Unreasonable seizure of his house (Question 4): \$ 125,000.00
- Excessive force (Question 6): \$ 0.00
- False arrest (Question 7): \$ 500,000.00

**Question Eleven**

**Question 11:** Should punitive damages be assessed against any of the following Defendants? Answer only as to Defendants who you have found individually liable on one or more of Plaintiffs' constitutional claims (Questions 1-5).

**Michael Zaro**

Yes  No

If yes, state the amount of punitive damages: \$ 3,600,000.00

**Michael Wiley**

Yes  No

If yes, state the amount of punitive damages: \$ 1,500,000.00

**Brian Markert**

Yes  No

If yes, state the amount of punitive damages: \$ ~~1,750,000.00~~ *SPHL*  
\$ 2,000,000.00

## Question Twelve

**Question 12:** Should punitive damages be assessed against any of the following Defendants? Answer only as to Defendants who you have found individually liable on Question 6.

**Jason Cannon** Yes \_\_\_\_\_ No

If yes, state the amount of punitive damages: \$ N/A

**Ryan Micenko** Yes No

If yes, state the amount of punitive damages: \$ N/A

Date and sign the form and advise the Court that you have reached a verdict.

DATED this 14<sup>th</sup> day of July, 2017.

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Presiding Juror